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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,009	12/19/2001	Martin Wiesler	1944	3574
7590	12/06/2004		EXAMINER	
STRIKER, STRIKER & STENBY 103 East Neck Road Huntington, NY 11743			NGUYEN, XUAN LAN T	
			ART UNIT	PAPER NUMBER
			3683	

DATE MAILED: 12/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/025,009	WIESLER ET AL.	
	Examiner Lan Nguyen	Art Unit 3683	<i>LL</i>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 September 2004.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1 and 3-16 is/are pending in the application.
  - 4a) Of the above claim(s) 8-15 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3-7 and 16 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on 27 September 2004 is: a) approved b) disapproved by the Examiner
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 66. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. Figure 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.121(d)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the

applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings contain multiple marks of correction, and have become confusing. The Examiner would appreciate a clean set of formal drawings. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

#### ***Claim Objections***

4. Claims 1 and 16 are objected to because of the following informalities: line 5 of claim 1 and line 5 of claim 16, "driven shaft wheel" should be replaced with --driven shaft--. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 7 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Winter et al.-(EP-0759374 A2).

Re: claim 1, Winter et al. show a transmission-drive unit for a seat adjustment, as in the present invention, comprising: a transmission housing 42; a driven shaft 26 extending outwardly beyond said transmission housing; a driven wheel 24 non rotatably arranged on said driven shaft; a support element 52 which directly at least partially surrounds said driven shaft as shown in figures 1 and 2 without further components between said driven shaft and said supporting element, said driven wheel 24 and said supporting element 52 being arranged axially near one another, wherein said supporting element 52 is arranged between said driven wheel 24 and an inner side of said transmission housing 42, as shown the figures. Note that the claimed feature "so that said driven wheel is directly supported against said supporting element when axial force action is applied from outside" is considered as a result and not a structural limitation. Winter et al. meet all the claimed structural limitations of claim 1.

Re: claim 7, Winter further shows said supporting element 52 being arranged at a distance from said driven wheel 24. Note that the claimed feature "which distance is reduced with growing axial force action" is considered as a result and not a structural limitation. Winter meets all the claimed structural limitations of claim 7.

Re: claim 16, the discussion for the rejection of claim 1 meets all the claimed limitations of claim 16.

7. Claims 1, 7 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Wittig et al. (DE 19709852 A1).

Re: claim 1, Wittig et al. show a transmission-drive unit for a seat adjustment, as in the present invention, comprising: a transmission housing 14; a driven shaft 37

extending outwardly beyond said transmission housing; a driven wheel 27,35,30 non rotatably arranged on said driven shaft; a support element 38 which directly at least partially surrounds said driven shaft as shown in figure 1 without further components between said driven shaft and said supporting element, said driven wheel 27,35,30 and said supporting element 38 being arranged axially near one another wherein said supporting element 38 is arranged between said driven wheel 27,35,30 and an inner side of said transmission housing 14, as shown figure 1. Note that the claimed feature "so that said driven wheel is directly supported against said supporting element when axial force action is applied from outside" is considered as a result and not a structural limitation. Wittig et al. meet all the claimed structural limitations of claim 1.

Re: claim 7, Wittig further shows said supporting element 38 being arranged at a distance from said driven wheel 27,35,30. Note that the claimed feature "which distance is reduced with growing axial force action" is considered as a result and not a structural limitation. Wittig et al. meet all the claimed structural limitations of claim 7.

Re: claim 16, the discussion for the rejection of claim 1 meets all the claimed limitations of claim 16.

#### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winter et al. (EP 0759374 A2) in view of the Applicant's submitted prior art, figure 2.

Winter's drive unit, as rejected in claim 1 above, is silent of a threaded bead formed on said driven shaft. Figure 2 of the submitted prior art teaches a threaded bead 34 formed on driven shaft 42, which has an outer diameter greater than the outer diameter of the driven shaft. With a modified driven shaft comprising a bead as taught by figure 2, said bead's outer diameter would be greater than the inner diameter of the supporting element 52. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Winter's drive unit to include a threaded bead on the driven shaft as taught by figure 2 of the submitted prior art in order to provide a more secured connection between the driven shaft and the driven wheel as taught by figure 2 of the submitted prior art.

10. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wittig et al. (DE 19709852 A1) in view of Winter et al. (EP 0759374 A2).

Wittig's unit, as rejected in claim 1, lacks a packing. Winter et al. teach the concept of having a packing 42 as a further supporting structure to increase the structural integrity of the seat adjuster in case of a collision. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Wittig's unit with a packing such as taught by Winter in order to increase the structural integrity of the seat adjuster in case of a collision to enhance the safety of the passengers.

11. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wittig et al. (DE 19709852 A1).

Wittig's drive unit, as rejected in claim 1 above, lacks the supporting element being formed as a part of said housing wall. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Wittig's drive unit to make the supporting element as a part of the housing wall, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

12. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wittig et al. (DE 19709852 A1) in view of the Applicant's submitted prior art, figure 2.

Wittig's drive unit, as rejected in claim 1 above, is silent of a threaded bead formed on said driven shaft. Figure 2 of the submitted prior art teaches a threaded bead 34 formed on driven shaft 42, which has an outer diameter greater than the outer diameter of the driven shaft. With a modified driven shaft comprising a bead as taught by figure 2, said bead's outer diameter would be greater than the inner diameter of the supporting element 38. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Wittig's drive unit to include a threaded bead on the driven shaft as taught by figure 2 of the submitted prior art in order to provide a more secured connection between the driven shaft and the driven wheel as taught by figure 2 of the submitted prior art.

***Response to Arguments***

13. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan Nguyen whose telephone number is 703-308-8347. The examiner can normally be reached on M-F, 8 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on 703-308-0830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lan Nguyen  
Patent Examiner  
Art Unit 3683

*Lan Nguyen* 12/02/04